



Bulletin

2013-03B

2012 LEGISLATION

TO: Local Officials

FROM: Robert G. Nunes, Deputy Commissioner & Director of Municipal Affairs

DATE: March 2013

SUBJECT: Summary of 2012 Municipal Finance Law Changes

To keep you informed of legislative developments during the year, the Division of Local Services publishes on a periodic basis a **BULLETIN** summarizing any new laws enacted that affect municipal budgets and local tax assessment, administration and collection. Each issue contains a cumulative summary of session laws enacted to that time and indicates whether the Division has issued or will issue any further implementation guidelines.

Attached is the **2012** edition of the **LEGISLATIVE BULLETIN**. It includes any legislative changes affecting municipal finance found in Chapters 1–464 of the Acts of 2012.

Copies of these new laws can be obtained from the web site of the State Legislature: <http://www.malegislature.gov/Laws/SessionLaws/Acts/2012> or the State Bookstore located in Room 116 of the State House.

2012 LEGISLATION

Ch. 36 **FISCAL YEAR 2012 SUPPLEMENTAL BUDGET**

An Act Making Appropriations for Fiscal Year 2012 to Provide for Supplementing Certain Existing Appropriations and for Certain Other Activities and Projects.

Effective February 17, 2012.

§ 13 Emergency Borrowing Term. Amends G.L. c. 44, § 8, Clause 9, which authorizes a city, town or district to borrow for up to two years for emergency purposes. Under the amendment, the Director of Accounts may authorize a longer borrowing term of up to 10 years based on the ability of the city, town or district to provide public service and pay the debt service when due, the amount of federal and state payments to address to the emergency and other factors the Director decides are appropriate.

Ch. 43 **EDUCATION COLLABORATIVES**

An Act Relative to Improving Accountability and Oversight of Education Collaboratives. *Effective March 2, 2012.*

Makes substantial amendments to G.L. c. 40, § 4E, which governs the operation of education collaboratives. These reforms are intended to provide greater transparency in collaborative governance, operations and finances. The Department of Elementary and Secondary Education (DESE) is given expanded oversight and regulatory authority over collaboratives, including requirements that it train collaborative board members and appoint a member to each board. Membership agreements must include provisions regarding the adoption of an annual budget, as well as the financial terms and conditions of membership. Collaboratives are required to adhere to certain generally accepted governmental accounting standards and supplemental standards set by DESE and the Department of Revenue (DOR) and must have an independent audit of its financial statements every year. Standards of conduct are also established for collaborative board members, executive directors and employees in order to prevent self-dealing. Existing collaboratives must amend their agreements consistent with the amended statute and have the new agreements approved by DESE. See regulations promulgated by DESE, [603 Code of Massachusetts Regulations 50.00](#), for detailed information about implementation requirements.

Ch. 66 **COMPENSATED ABSENCES SPECIAL FUND**

An Act Relative to Compensated Absences in Cities and Towns. *Effective July 3, 2012.*

Adds a new local acceptance statute, G.L. c. 40, § 13D, that lets cities, towns, districts and regional school districts establish and appropriate monies into a reserve fund for future payment of accrued liabilities for compensated absences owed to employees and full-time officers when they terminate employment. Accrued liabilities would include accrued and unused sick and vacation leave and unused compensatory time earned pursuant to collective bargaining agreements, ordinances, by-laws and the like, which

become due and payable upon retirement or other termination of employment as specified in the agreement or other binding provision. Acceptance of the statute is by majority vote of a city council, town or district meeting, or regional school committee. The treasurer of the governmental unit may invest the funds in the manner authorized for trust funds under G.L. c. 44, § 54 and the interest remains with the fund. The governmental unit may designate the official authorized to make payments from the fund, and if no designation is made, the chief executive officer of the city, town or district may do so.

Regional school districts may only include an appropriation into the compensated absences fund in the annual district budget submitted to the appropriating bodies of its member cities and towns. It cannot be included in a supplemental budget or be funded through use of the district school committee's budget transfer authority. Any regional school district operating such a fund on the effective date of the act may continue doing so under the terms of G.L. c. 40, § 13D.

Ch. 108 VETERAN TAX REDUCTIONS

An Act Relative to Veterans' Access, Livelihood, Opportunity and Resources (VALOR Act). *Effective May 31, 2012.*

§ 7A Veterans Exemption. Amends G.L. c. 59, § 5, Clause 22A, which provides a \$750 exemption for veterans who lost or lost use of certain extremities or received certain service awards. Under the amendment, a person who is recalled to active service continues to qualify for the exemption.

§ 8 Surviving Spouse Exemption. Amends G.L. c. 59, § 5, Clause 22D, which provides an exemption for the domiciles of certain surviving spouses of service members who were killed in combat, or whose death was the proximate result of an injury sustained or disease contracted in a combat zone. Under the amendment, the exemption will be 100 per cent of the taxes assessed in all years granted. Previously, the exemption was capped at \$2,500 in years six and after. The amendment is effective for FY2013 exemptions.

§ 8A Veteran Work-off Abatement Program. Adds a new local acceptance statute, G.L. c. 59, § 5N, to allow cities and towns to create work-off abatement programs for veterans. The statute is almost identical to G.L. c. 59, § 5K under which communities may establish those programs for seniors (60 or older). Acceptance is by vote of the legislative body subject to charter. G.L. c. 4, § 4. Under the program, veterans may earn "abatements" of their property taxes by working for the community. Each community will set its own program and eligibility requirements, but the taxpayer's hourly earnings may not exceed the state minimum wage and the earned abatement may not exceed \$1,000, or if voted by legislative body, 125 hours of service. The earned abatement is not income for state tax and worker's compensation purposes.

Ch. 118 FISCAL YEAR 2012 SUPPLEMENTAL BUDGET

An Act Making Appropriations for Fiscal Year 2012 to Provide for Supplementing Certain Existing Appropriations and for Certain Other Activities and Projects.

Effective June 19, 2012.

§§ 9-11 Municipal and District Health Insurance. Amends G.L. c. 32B, §§ 19, 21 and 23 provisions regarding the deadline for municipalities to notify the Group Insurance Commission (GIC) of transfer of their employees to GIC coverage. Notice must be made by December 1 to transfer subscribers the following July 1 and by July 1 to transfer subscribers by the following January 1. Also allows districts other than regional school districts to change benefits under municipal health insurance reform by vote of their governing boards or district meetings. Under prior law, a district meeting vote was the exclusive means of changing the benefits.

Ch. 139 FISCAL YEAR 2013 STATE BUDGET

An Act Making Appropriations for the Fiscal Year 2013 for the Maintenance of the Departments, Boards, Commissions, Institutions and Certain Activities of the Commonwealth, for Interest, Sinking Fund and Serial Bond Requirements and for Certain Permanent Improvements. *Effective July 1, 2012, unless otherwise noted.*

§ 3 Local Aid Advances. Authorizes the State Treasurer to advance payments of FY2013 local aid distributions to a city, town, regional school district or independent agricultural and technical school that demonstrates an emergency cash shortfall, as certified by DOR and approved by the Secretary of Administration and Finance (A & F).

§§ 69-83, 155 and 218 Community Preservation Act. Sections 69-83 amend several sections in G.L. c. 44B, the Community Preservation Act (CPA). The amendments broaden the allowable uses of CPA funds to make capital improvements and rehabilitate existing parks, playgrounds and other outdoor active or passive recreational sites. Previously, communities could only use CPA funds to rehabilitate recreational assets acquired or created with CPA funds. *Seideman v. City of Newton*, 452 Mass. 472 (2008). Use of CPA funds for installation of artificial turf at recreational sites is prohibited. Also lets communities use CPA funds to provide direct financial assistance to low income persons or low or moderate income seniors in need of housing, through security deposits, rental vouchers, loans and the like. Previously, the allowable statutory uses had to result in an expansion of the community's affordable housing stock. Communities may adopt a new optional exemption for the surcharge attributable to the real estate taxes on the first \$100,000 of assessed value for commercial and industrial properties. A similar optional exemption already exists for residential properties. Communities may also accept the CPA with a surcharge rate of 1 per cent of local property taxes and still qualify for full state Community Preservation Trust Fund distributions provided they commit other municipal revenues equal to 2 per cent of those taxes to the CPA fund. Section 155 provides a one-time deposition of \$25 million in the state trust fund from the state FY2013 budgetary surplus to be used to provide matching funds to CPA communities in FY2014. **See technical amendment made by St. 2012, c. 239, § 48 below.**

§ 84 Local Tax E-billing. Adds a new sub-section (e) to G.L. c. 60, § 3A, which relates to the form and content of local tax bills. Local collectors may now establish voluntary e-billing programs for motor vehicle, boat or farm animal excises, betterments and special assessments or any tax committed to them by the assessors. Previously, the statute allowed voluntary e-billing programs for just real and personal property taxes. See [Informational Guideline Release \(IGR\) 13-208, Motor Vehicle Excise Bills](#), and [13-209, Boat Excise Bills](#), issued March 2013.

§ 85 Motor Vehicle Excise Bills. Amends G.L. c. 60A, § 2 to eliminate the requirement that taxpayers' driver's license numbers appear on their motor vehicle excise bills. See [IGR 13-208, Motor Vehicle Excise Bills](#), issued March 2013.

§ 168 Education Reform Waivers. Permits cities, towns and regional school districts to apply for various adjustments in their FY2013 minimum required contributions to schools under the Education Reform Act. Municipalities may seek adjustments if (1) non-recurring revenues were used to support FY2012 operating budgets and those revenues are not available in FY2013, (2) they have extraordinary non-school related expenses in FY2013, or (3) their FY2013 municipal revenue growth factor is at least 1.5 times the statewide average and is deemed to be excessive. Regional school districts that used non-recurring revenues in FY2012 that are unavailable for FY2013 must seek waivers if a majority of the selectmen in a town, the city council in a Plan E city or the mayor in all other cities in a majority of the member municipalities requests them. If a regional school budget has already been approved by the members and a waiver is granted of any member's minimum required local contribution to the district, the use of that waiver must be approved by the selectmen, the city council in a Plan E city or the mayor in all other cities of a majority of the member municipalities. Requests for waivers must be made by October 1, 2012. See [IGR 12-202, Fiscal Year 2012 Waivers to Education Reform Spending Requirements and Minimum Required Local Contributions](#), issued August 2012.

Ch. 140 LONG TERM LESSEES

An Act Further Regulating the Probate Code and Establishing a Trust Code.
Effective July 8, 2012.

§ 1 Long-term Lessees. Adds G.L. c. 186, § 1A, which restores treatment of lessees of long-term leases as owners for all purposes. The prior version, G.L. c.186, § 1, was repealed as part of the enactment of the Uniform Probate Code in 2008. As a result, the lessee of a lease with a term of 100 or more years and 50 or more years left to run is considered the assessed owner of property for local tax purposes.

Ch. 165 LOCAL AID DISTRIBUTIONS

An Act to Improve the Administration of State Government and Finance. *Effective July 27, 2012.*

§§ 116 and 136 Local Aid Distributions. Amends G.L. c. 58, § 18C to require that certain local aid distributions, including Unrestricted General Government Aid, Chapter 70 and State-owned Land reimbursements, be paid on a monthly basis rather than quarterly or annually. The change is effective beginning in Fiscal Year 2014.

Ch. 238 ECONOMIC DEVELOPMENT

An Act Relative to Infrastructure Investment, Enhanced Competitiveness and Economic Growth in the Commonwealth. *Effective August 7, 2012 (Emergency Declaration).*

§ 14 Local Infrastructure Development Program (LIDP). Adds G.L. c. 23L, which lets a city or town create one or more development zones to construct, maintain, repair and operate various public improvements, amenities and infrastructure that service residents and businesses within the zone. The improvements may include water, sewer and storm water systems, roads, bridges, sidewalks, lighting, parking facilities, public safety and public works buildings, parks and recreational facilities, cultural and performing arts facilities, marine facilities, transportation stations, energy and telecommunications systems. The zones may encompass more than one municipality. To finance the infrastructure, the municipality may impose an infrastructure assessment or a special assessment similar to a betterment.

Creation of a development zone is initiated by petition of property owners within the proposed zone filed with the municipal clerk and the Massachusetts Development Finance Agency (MDFA). The petitioners must have the consent of all record owners of real property acreage included within the zone, except governmental owners. The petitioners must provide a proposed improvement plan for the zone, which sets forth the planned infrastructure improvements, their estimated cost and construction timetable and the procedure for reimbursing the municipality for its costs in creating and administering the zone and collecting infrastructure assessments.

Within 120 days, the selectboard or city or town council must hold a hearing on the petition, after mailing notices to property owners within the zone at least 14 days in advance. Notice must be given by newspaper publication as well. Within 90 days, the selectboard, mayor or manager must make recommendations and findings on the petition, including whether the plan is consistent with the master plan of the municipality as verified by the planning board and the improvements are compatible with capacity and use of existing local and regional infrastructure. Within 21 days, the selectboard, or city or town council with the approval of the mayor or manager must approve or disapprove the petition. If approved, notice must be filed with the municipal clerk, MDFA and Secretary of State. Upon filing, the zone is created and plan approved.

Once approved, the owner of public facilities that are part of the approved plan has the rights and powers necessary to carry out the plan, such as to contract with the municipality, other municipalities, the Commonwealth, utility companies and other parties to provide services needed to support the improvement plan, hire employees, adopt an annual budget and raise revenues for its purposes, which includes the power to issue debt and pledge its revenues.

The municipality may assess infrastructure assessments on real estate, leaseholds and other interests within the zone consistent with the improvement plan. Governmental owners are exempt unless they agree to accept the assessments. The assessments may be set to cover: the administrative expenses of the zone, debt service on bonds issued to finance improvements, reserves required by agreements pledging revenues to secure the bonds, costs to maintain, repair, replace and renew improvements and certain related MDFA expenses. Alternatively, it may assess a “special assessment” to finance the cost of administration, the improvements and their maintenance, repair, replacement and renewal. It may use value, frontage, per lot, square foot or other method to allocate the costs based on benefits received. A public hearing must be held on the schedule of assessments.

The assessments are generally subject to the same administrative provisions as betterments and special assessments, except they may be made before construction and property owners may pay in up to 25 years. There is a lien to secure payment upon recording the improvement plan and assessment schedules in the registry of deeds. The liens are subordinate to municipal liens. The assessments can be collected in the same manner as property taxes, betterments and other special assessments owed to the municipality.

MDFA may issue special obligation (revenue) bonds for up to 25 years to provide financing for the improvements. The bonds are not general obligations of the Commonwealth or the municipality. Infrastructure assessments, other revenues, assets and property related to the development zone may be pledged to secure payment of the debt. The bonds are legal investments for municipalities and other public entities.

MDFA may also issue debt secured by the infrastructure assessments in place of debt issued by a municipality that approves an invested revenue district development plan to carry out certain improvements under G.L. c. 40Q, the District Improvement Financing (DIF) program. Under DIF, a municipality may dedicate a portion of the real estate tax revenues generated within the district to financing the improvements (the tax increment). The municipality must include in its invested revenue district program a description of the rights and responsibilities of the MDFA and municipality and can use this financing for projects relating to just one parcel.

§§ 19-23 Business Improvement Districts (BIDs). Amends G.L. c. 40O, §§ 1, 4 and 9 so that all property owners within BIDs must pay the BID assessment. A petition to create a BID needs to be signed by the owners of at least 51 per cent of the assessed valuations, and 60 per cent of all owners, of real property within the proposed BID. The municipality then holds a public hearing on the petition. Under the amendments, all owners within the proposed district will continue to get notice of the hearing, but once the municipality approves the BID, they are all members and must pay the assessment. Previously, property owners could elect to opt out from membership and the assessment. In addition, every five years, the BID members will have to vote on whether to renew the BID.

§ 24 District Improvement Financing (DIF). Amends G.L. c. 40Q, § 2 to allow a municipality to establish a DIF program to finance improvements within a certain area with a portion of real estate tax revenues generated within that area (the tax increment) without obtaining approval of its improvement plan from the Economic Assistance Coordinating Council (EACC).

Ch. 239 FISCAL YEAR 2012 SUPPLEMENTAL BUDGET
An Act Making Appropriations for Fiscal Year 2012 to Provide for Supplementing Certain Existing Appropriations and for Certain Other Activities and Projects.
Effective August 7, 2012.

§ 48 CPA Technical Amendment. Makes a technical correction to St. 2012, c. 139, § 218, which makes CPA amendments in outside sections of the FY2013 State Budget applicable to prior CPA appropriations. It corrects the outside sections cited in § 218.

Ch. 256 WATER STORAGE FACILITY CONTRACTS
An Act Authorizing Governmental Bodies to Enter into Contracts for the Inspection, Maintenance, Repair or Modification of Water Storage Facilities.
Effective November 20, 2012.

Adds G.L. c. 40, §§ 61-69, which allow governmental units to enter contracts for the inspection, maintenance, repair or modification of water storage facilities that structure annual payments to include the cost of completed or prospective capital improvements. Governmental units include cities, towns, water and wastewater districts and municipal or regional water and sewer commissions. Water storage facilities include below and above ground tanks, towers or other storage structures. The payment structure cannot amortize the costs over a period longer than the useful life of the capital improvements and those costs related to prospective work must be secured by a bond or other guaranty. The contract may be for up to 15 years, with an option to renew for up to five years. The procurement is subject to G.L. c. 30B, § 6 and the contract must be approved by a two-thirds vote of the local legislative body. The contract may make payments for annual costs subject to appropriation, but the governmental unit is liable for payment of all costs amortized for completed capital improvements.

Ch. 417 PARKING METER RECEIPTS

An Act relative to Commuter Shuttles and Public Transportation Improvements.
Effective January 8, 2013.

Amends G.L. c. 40, § 22C, which reserves certain parking meter revenues for appropriation for traffic control or safety purposes and the purchase, lease and maintenance of other parking lots. Under the amendment, the monies may now also be appropriated to purchase or lease commuter shuttles and maintain public transit station accessibility improvements.

Ch. 448 BORROWING FOR DAMS AND SEAWALLS

An Act Further Regulating Dam Safety, Repair and Removal. *Effective January 9, 2013.*

§ 4 Borrowing for Dams and Seawalls. Adds Clause 25 to G.L. c. 44, § 8, to allow municipalities to borrow outside their debt limits for up to 40 years to acquire, remove, repair, reconstruct or improve dams, and appurtenant real property, they own. See [DLS Asset Useful Life Schedules – Maximum Borrowing Terms](#), effective April 1, 2013.

Last Act: Chapter 464 signed by the Governor on January 11, 2013.